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FEBRUARY 17, 2021 BY RONNIE

Bill C-21: Introducing Red Flag Laws To Make It Easier To Grab Guns

Bill C-21, if implemented, will allow for private citizens to go before Courts, and ask A Judge to issue an Order to seize a person's firearms. Note: it doesn't appear that the person who is potentially subjected to such a restraint will have the opportunity to defend themselves.

1. What The Criminal Code Says Right Now

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Criminal Code (R.S.C., 1985, c. C-46)
Full Document: HTML (Accessibility Buttons available) | XML [4776 KB] | PDF [7237 KB]
Act current to 2021-01-28 and last amended on 2020-07-01. Previous Versions
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Mandatory prohibition order
109 (1) Where a person is convicted, or discharged under section 730, of
(a) an indictable offence in the commission of which violence against a person was used, threatened or attempted and for which the person may be sentenced to imprisonment for ten years or more,

Discretionary prohibition order

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110 (1) Where a person is ***convicted, or discharged under section 730***, of

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(a) an offence, other than an offence referred to in any of paragraphs 109(1)(a) to (c.1), in the commission of which violence against a person was used, threatened or attempted, or

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(b) an ***offence that involves, or the subject-matter of which is, a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition or an explosive substance and, at the time of the offence***, the person was not prohibited by any order made under this Act or any other Act of Parliament from possessing any such thing,

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the court that sentences the person or directs that the person be discharged, as the case may be, shall, in addition to any other punishment that may be imposed for that offence or any other condition prescribed in the order of discharge, ***consider whether it is desirable, in the interests of the safety of the person or of any other person, to make an order prohibiting the person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things, and where the court decides that it is so desirable, the court shall so order***.

Section 109 of the Criminal Code of Canada mandates prohibitions based on serious convictions, and 110 of the Code allows for weapons bans based on lesser crimes. But the key is ***CRIMINALS***.

What is key here, is that it refers to people convicted of crimes, or discharged after a finding of guilt. There are also provisions which allow for accused people released on bail to have their firearm access suspended. That's reasonable to most people.

However, this proposed addition to the Code would allow for (shorter) prohibitions based on reasonable suspicion, whatever that means. And while people are entitled to defend themselves in criminal cases, that doesn't see to apply here.

2. What Bill C-21 Would Add To Criminal Code

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HOUSE OF COMMONS
BILL C-21
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(First Reading
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Second Session, Forty-third Parliament,
69-70 Elizabeth II, 2020-2021
HOUSE OF COMMONS OF CANADA
BILL C-21
An Act to amend certain Acts and to make certain consequential amendments (firearms)
1 Criminal Code
15 Firearms Act
15 Amendments to the Act
40 Transitional Provision

4 The Act is amended by adding the following after section 110:

Application for emergency prohibition order

110.1 (1) ***Any person may make an ex parte application to a provincial court judge for an order prohibiting another person from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance***, or all such things, if the person ***believes on***

reasonable grounds that it is not desirable in the interests of the safety of the person against whom the order is sought or of any other person that the person against whom the order is sought should possess any such thing.

Emergency prohibition order

(2) If, at the conclusion of a hearing of an application made under subsection (1), the provincial court judge is satisfied that the circumstances referred to in that subsection exist and that an order should be made without delay to ensure the immediate protection of any person, the ***judge shall make an order prohibiting the person against whom the order is sought from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things***, for a period ***not exceeding 30 days***, as is specified in the order, beginning on the day on which the order is made.

Service of order

(3) A copy of the order shall be served on the person to whom the order is addressed in the manner that the provincial court judge directs or in accordance with the rules of court.

Warrant to search and seize

(4) If a provincial court judge is satisfied by information on oath that there are reasonable grounds to believe that a person who is subject to an order made under subsection (2) possesses, in a building, receptacle or place, any thing the possession of which is prohibited by the order, and that it is not desirable in the interests of the safety of the person, or of any other person, for the person to possess the thing, the ***judge may issue a warrant authorizing a peace officer to search the building, receptacle or place and seize any such thing, and every authorization, licence or registration certificate relating to any such thing***, that is held by or in the possession of the person.

Search and seizure without warrant

(5) If, in respect of a person who is subject to an order made under subsection (2), a ***peace officer is satisfied that there are reasonable grounds to believe that it is not desirable, in the interests of the safety of the person, or of any other person***, for the person to possess any thing the possession of which is prohibited by the order, the peace officer may, where the grounds for obtaining a warrant under subsection (4) ***exist but, by reason of a possible danger to the safety of the person or any other person, it would***

not be practicable to obtain a warrant, search for and seize any such thing, and any authorization, licence or registration certificate relating to any such thing, that is held by or in the possession of the person.

Return to provincial court judge or justice
(6) A peace officer who executes a warrant referred to in subsection (4) or who conducts a search without a warrant under subsection (5) shall immediately make a return to the provincial court judge who issued the warrant or, ***if no warrant was issued, to a justice who might otherwise have issued a warrant***, showing
(a) in the case of an execution of a warrant, the things or documents, if any, seized and the date of execution of the warrant; and
(b) in the case of a ***search conducted without a warrant, the grounds on which it was concluded that the peace officer was entitled to conduct the search, and the things or documents, if any, seized***.

Return of things and documents
(7) Any things or documents seized under subsection (4) or (5) from a person against whom an order has been made under subsection (2) shall be returned to the person and any things or documents surrendered by the person in accordance with the order shall be returned to the person
(a) if no date is fixed under subsection 110.2(1) for the hearing of an application made under subsection 111(1) in respect of the person, as soon as feasible after the expiry of the period specified in the order made against the person under subsection (2);
(b) if a date is fixed for the hearing but no order is made against the person under subsection 111(5), as soon as feasible after the final disposition of the application; or
(c) despite paragraphs (a) and (b), if the order made against the person under subsection (2) is revoked, as soon as feasible after the day on which it is revoked.

10 The Act is amended by adding the following after the heading before section 117.011:
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Application for emergency limitations on access order
117.0101 (1) ***Any person may make an ex parte application to a provincial court judge for an order under this section if the person believes on reasonable grounds that***
(a) the ***person against whom the order is sought cohabits with, or is an associate of, another person who is prohibited by any order made under this Act or any other Act***

> ***of Parliament*** from possessing any firearm, cross-bow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition or explosive substance, or all such things; and
> (b) the other person would or might have access to any such thing that is in the possession of the person against whom the order is sought.
> Emergency limitations on access order
> .
> (2) If, at the conclusion of a hearing of an application made under subsection (1), the ***provincial court judge is satisfied that the circumstances referred to in that subsection exist and that an order should be made without delay to ensure the immediate protection of any person, the judge shall make an order in respect of the person against whom the order is sought, for a period not exceeding 30 days***, as is specified in the order, beginning on the day on which the order is made, imposing any terms and conditions on the person's use and possession of any thing referred to in subsection (1) that the judge considers appropriate.

https://parl.ca/DocumentViewer/en/43-2/bill/C-21/first-reading#ID0ELAA

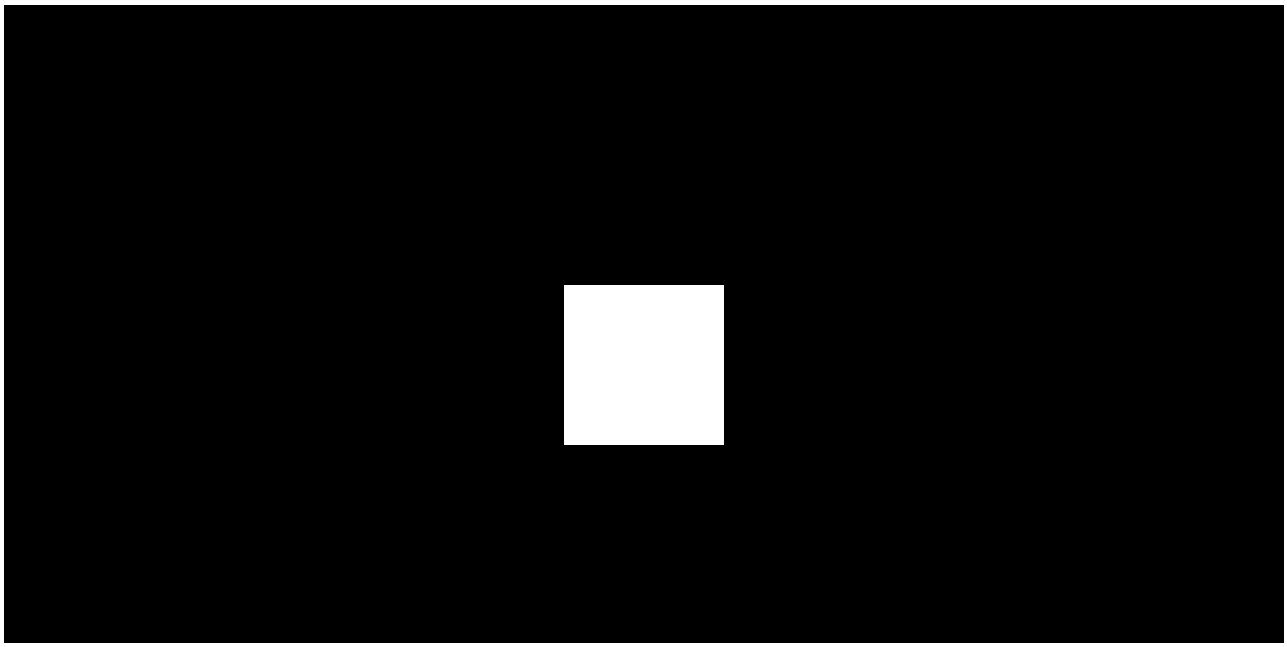
As it is written right now, any person will be able to file an application with the Court, to ask a person be removed of their guns, without the right to defend themselves at the start. It's written up so that the person applying doesn't have to fear for their safety, but can claim to fear for someone else. Of course, it's unclear what standard (if any), would be applied to satisfy a Court.

Not only can these Applications be done without a person being able to defend themselves, but it appears that warrantless searches would be allowed. Of course, all of this is done in the name of public safety.

It's not limited to getting an Order against a person — again, with no chance to defend themself. In addition, an Order can also be sought against the people who live with, or associate with, that person. So much for freedom of association.

To repeat, there is no requirement that the recipients of such Orders be charged or convicted of crimes. Simply having a Judge "believe reasonably" is sufficient. Certainly, it's easier when only one side can be heard.

3. Recent Red Flag Laws In United States



Unfortunately, these types of laws are not limited to Canada, or to Liberals. Even in the United States, efforts to implement red-flag laws are growing. Here, then President Trump, a REPUBLICAN, supported taking the guns first. However, the full scale of that will be saved for another article.

CANADA, CANADIAN BILLS, CRIMINAL, GLOBALISM, GUN RIGHTS, DISARMAMENT, WARS